

This letter discusses multi-service situations and graphic arts exemption questions. See 86 Ill. Adm. Code 140.301 and 86 Ill. Adm. Code 130.325. (This is a GIL).

July 3, 2001

Dear Xxxxx:

This letter is in response to your letter dated April 23, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

I am attaching a copy of a letter provided to me on or about the 2nd day of February, 2001. PERSON has been tied up with tax preparation and some medical issues. He asked that I respond to your letter, and I am doing so. A copy of my communication is going to PERSON.

In examining the process of PERSON's client, I inquired as to whom the 'packager' is under contract to. Clearly, the packager is under contract to the printer and is not under contract to any publishers. This deals with the assumption that you made on the top of page 2 of your letter. I am, therefore, requesting whether the fact that the packager is under contract to the printer, and not the publisher, would change any determinations that you make thereafter.

The process that the 'packager' performs includes ink jet printing, collating, and preparing the mailing of the magazines. In that sense, they perform tasks which are a part of the integrated manufacture process.

What PERSON did not elaborate upon can be found in the third paragraph of his letter where he states 'the poly is transferred to customers as part of the magazine subscription and is an integral part of the mailing and could not be done without these machines.' To elaborate, the magazines, along with other pieces that are going to a subscriber, are collated and then wrapped in polyurethane. The polyurethane is then imprinted with whatever graphic design is required on the polyurethane, as well as all mailing data, and all are integral parts of the mailing. The client also is integrated with the United States mails and is a postal facility for the sorting of the wrapped product. I believe this is clearly a continuation of the 'manufacturing process' for magazines in order they be forwarded through the mails.

I would appreciate if you could review this and feel free to call this office, and the undersigned, for further elaboration.

In our previous response, we assumed that the magazine publisher contracts with the printer to have the magazines printed and separately contracts with the packager to have the magazines packaged. You have indicated that instead, the packager is under contract to the printer. We assume that the printer is under contract to the publisher to print, collate and prepare magazines for mailing.

The situation you describe appears to be a multi-service situation. Multi-service situations exist where a primary serviceman subcontracts work to a secondary serviceman. In multi-service situations, a primary serviceman's cost price is determined either by the separately stated selling price of the tangible personal property transferred from a secondary serviceman, or if the secondary serviceman does not separately state the cost of goods, it is presumed that the primary serviceman's cost price is 50% of the secondary serviceman's total charge. See 86 Ill. Adm. Code 140.301(a), enclosed.

When both primary servicemen and secondary servicemen are registered, primary servicemen may give a Certificate of Resale to registered secondary servicemen for any tangible personal property purchased. Primary servicemen could then collect Service Use Tax from their customers based upon the separately stated selling price of the property or 50% of the bill to the service customers.

If primary servicemen are registered and de minimis, they may choose to remit Service Occupation Tax to the Department based upon their cost price of tangible personal property purchased from secondary servicemen. If the cost price of the tangible personal property is not separately stated by the secondary serviceman, the cost price will be deemed to be 50% of the total bill from the secondary serviceman. Primary servicemen provide the secondary servicemen with of Resale if the secondary servicemen are registered, and collect Service Use Tax from customers on their cost price.

Public Act 89-675, effective August 14, 1996, states that if an unregistered de minimis serviceman subcontracts service work to an unregistered de minimis secondary serviceman, the primary serviceman does not incur a Use Tax liability if the secondary serviceman (i) has paid or will pay Use Tax on his or her cost price of any tangible personal property transferred to the primary serviceman and (ii) certifies to that fact in writing to the primary serviceman. This certification option is only available in multi-service situations when both the primary and secondary servicemen are unregistered and de minimis, 35 ILCS 110/2 and 115/2.

All of the above explanation affects the manner in which packing materials and other tangible personal property transferred to your customer (the printer) are taxed. However, you should note that the Department's regulation for the Graphic Arts Machinery and Equipment Exemption, set forth at 86 Ill. Adm. Code 130.325, copy enclosed, has been updated effective March 15, 2001. Under the new regulation, equipment used to collate, wrap and label graphic arts products may qualify for the graphic arts exemption from sales tax, if all other requirements are met. See Section 130.325(b)(4)(C).

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Martha P. Mote
Associate Counsel

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Enc.